

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA,
BIRMINGHAM – HUGO BLACK COURTHOUSE**

JOHANNA WATTS-SMITH,	§	No.
	§	
Plaintiff,	§	
	§	
v.	§	
	§	
PARNELL & CRUM, P.A.,	§	
	§	
Defendant.	§	
	§	

PLAINTIFF’S COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, JOHANNA WATTS-SMITH (“Plaintiff”), through her attorneys, KROHN & MOSS, LTD., alleges the following against Defendant, PARNELL & CRUM, P.A. (“Defendant”):

INTRODUCTION

1. Plaintiff’s Complaint is based on the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692, *et seq.*
2. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

JURISDICTION AND VENUE

3. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy.”
4. Defendant conducts business in the state of Alabama, and therefore, personal jurisdiction is established.
5. Venue is proper pursuant to 28 U.S.C. § 1391(b)(1).

PARTIES

6. Plaintiff is a natural person residing in Birmingham, Jefferson County, Alabama.
7. Plaintiff is a consumer as that term is defined by 15 U.S.C. § 1692a(3), and according to Defendant, Plaintiff allegedly owes a debt as that term is defined by 15 U.S.C. § 1692a(5).
8. Defendant is an alleged debt collector as that term is defined by 15 U.S.C. § 1692a(6), and sought to collect a consumer debt from Plaintiff.
9. Defendant is a collection law firm with a business office in Montgomery, Alabama.

FACTUAL ALLEGATIONS

10. Defendant communicates with Plaintiff seeking and demanding payment for an alleged debt (File Number: 424087).
11. On August 13, 2008, Plaintiff faxed Defendant a cease and desist letter. *See* Exhibit A.
12. On August 13, 2008, Plaintiff faxed Defendant a notice of representation letter. *See* Exhibit A.
13. Despite receiving Plaintiff's August 13, 2008 letter (Exhibit A), Defendant communicated with Plaintiff after August 13, 2008, in an attempt to collect a debt. *See* Exhibit B.

COUNT I DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

14. Defendant violated the FDCPA based on the following:
 - a. Defendant violated § 1692c(a)(2) of the FDCPA by communicating with Plaintiff even though Defendant knew Plaintiff was represented by an attorney.

- b. Defendant violated § 1692c(c) of the FDCPA by communicating with Plaintiff after Defendant received Plaintiff's cease and desist letter.

WHEREFORE, Plaintiff, JOHANNA WATTS-SMITH, respectfully requests judgment be entered against Defendant, PARNELL & CRUM, P.A., for the following:

15. Statutory damages of \$1,000.00 pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. § 1692k.
16. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. § 1692k.
17. Any other relief that this Honorable Court deems appropriate.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, JOHANNA WATTS-SMITH, demands a jury trial in this case.

Dated: February 15, 2011

RESPECTFULLY SUBMITTED,

By: /s/ M. Brandon Walker

M. Brandon Walker, Esquire
ASB: 7482-H62W
1120 Lanier Drive
Bessemer AL 35022
Tel: (205) 306-4594
E-mail: brandonwalker014@gmail.com
Attorneys for Plaintiff,
JOHANNA WATTS-SMITH

VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF ALABAMA

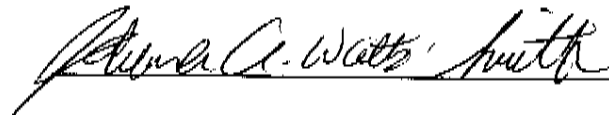
Plaintiff, JOHANNA WATTS-SMITH, states the following:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, JOHANNA WATTS-SMITH, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

02-21-2011

Date



JOHANNA WATTS-SMITH

Exhibit A

Debt Counsel for Seniors & the Disabled



13 August 2008

BY FAX ONLY: 334-293-3550

Page 1 of 3

Parnell & Crum PA
641 South Lawrence Street
Montgomery AL 36102

Re: **Johanna Watts-Smith**
Alleged creditor: Bank of America
Your file or reference No.: 424087
Our file No.: 8474

Dear Sir or Madam:

Please be advised that my law firm represents the above-referenced client for the purpose of enforcing their rights against debt collectors under all applicable federal laws.

This letter serves as notice that my client hereby **disputes** the above-referenced alleged debt and requests validation of it in accordance with **15 U.S.C. § 1692g**. Please provide any agreement(s) our client signed with the original creditor, an accounting history showing how you got to the amounts claimed and when this alleged debt was charged off. Unless and until such proof is furnished, we do not recognize any right on your part to attempt to collect any amount from our client through credit reporting or any other means. Moreover, all changes in terms of this alleged debt are hereby objected to and rejected. Please be advised that the continuation of collection activity without adequately responding to these requests may result in a lawsuit against you.

As the client's attorney, I also respectfully inform you that you must **cease** contacting them according to **§§ 1692c(a)(2) AND 1692c(c)** of the **Fair Debt Collection Practices Act**, since this letter not only serves as notice of our representation of this client but also contains a cease and desist order signed and notarized by the alleged debtor. If and when you violate these statutes, I will not hesitate to pursue all legal remedies on behalf of my client in the United States District Court.

Finally, please be advised that this client is insolvent and cannot afford to file for bankruptcy. They exist exclusively on income from **non-garnishable sources; e.g., social security, disability, veteran's or retirement benefits**. I have also enclosed my client's **affidavit** swearing to this fact. As you should know, this income is protected from execution, levy, attachment, garnishment and other legal process by federal law. The attachment or attempted attachment of these benefits is considered a violation of **§ 1692(f)** of the **Fair Debt Collection Practices Act**, so please govern your actions accordingly.

Very truly yours,

Jerome S. Lamet, Supervising Attorney
Debt Counsel for the Seniors and the Disabled
Cc: Johanna Watts-Smith

Jerome S. Lamet, Supervising Attorney
The Pontiac Building
542 South Dearborn
Suite 1250
Chicago, Illinois 60605
V: (312) 939-2221
F: (312) 939-2741

TRANSMISSION VERIFICATION REPORT

TIME : 08/12/2008 22:11
NAME : JEROME LAMET LTD
FAX : 13123563199
TEL : 13129392221
SER.# : BRODBJ797996

DATE, TIME
FAX NO. /NAME
DURATION
PAGE(S)
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08/12 22:11
13342933550
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OK
STANDARD
ECM

Debt Counsel for Seniors & the Disabled

DCSD

13 August 2008

BY FAX ONLY: 334-293-3550
Page 1 of 3

Parnell & Crum PA
641 South Lawrence Street
Montgomery AL 36102

Re: **Johanna Watts-Smith**
Alleged creditor: Bank of America
Your file or reference No.: 424087
Our file No.: 8474

Dear Sir or Madam:

Please be advised that my law firm represents the above-referenced client for the purpose of enforcing their rights against debt collectors under all applicable federal laws.

This letter serves as notice that my client hereby disputes the above-referenced alleged debt and requests validation of it in accordance with 15 U.S.C. § 1692g. Please provide any agreement(s) our client signed with the original creditor, an accounting history showing how you got to the amounts claimed and when this alleged debt was charged off. Unless and until such proof is furnished, we do not recognize any right on your part to attempt to collect any amount from our client through credit reporting or any other means. Moreover, all changes in terms of this alleged debt are hereby objected to and rejected. Please be advised that the continuation of collection activity without adequately responding to these requests may result in a lawsuit against you.

As the client's attorney, I also respectfully inform you that you must cease contacting them according to §§ 1692c(a)(2) AND 1692c(c) of the Fair Debt Collection Practices Act, since this letter not only serves as notice of our representation of this client but also contains a cease and desist order signed and notarized by the alleged debtor. If and when you violate these statutes, I will not hesitate to pursue all legal remedies on behalf of my client in the United States District Court.

Finally, please be advised that this client is insolvent and cannot afford to file for bankruptcy. They exist

Exhibit B

CHARLES N. PARNELL, III
G. BARTON CRUM
ROBERT J. RUSSELL, JR.
BRITT BATSON GRIGGS
MATTHEW T. ELLIS
ADRIAN D. JOHNSON
J. MATTHEW PARNELL
MICHAEL LEE HASSELL, JR.

PARNELL & CRUM, P.A.
ATTORNEYS AT LAW
641 SOUTH LAWRENCE STREET
MONTGOMERY, ALABAMA 36104

8474
TELEPHONE
334-832-4200

TELECOPIER
334-293-3550

MAILING ADDRESS
P.O. BOX 2189
ZIP CODE 36102-2189

March 9, 2010

424087 - SIF/MR
JOHANN A WATTS
[REDACTED]

Re: BANK OF AMERICA, NA., USA,
F/D/B/A NATIONSBANK OF
Vs. JOHANN A WATTS
Our File: 424087
Balance: [REDACTED]

Dear JOHANN A WATTS:

Make your 2009 Income Tax Return work for you.

Since our last correspondence to you we have received the authority to give you an offer to settle this account once and for all. **THIS IS A ONE TIME OFFER.** Due to the age of the account, our client is willing to take a loss just to clear their books. They have instructed us to offer you a settlement in the amount of [REDACTED] if you can have this amount in our office by close of the business day on March 28th, 2010. This is a savings to you of 50%.

Please understand, this is a **ONE TIME OFFER** and if this amount has not been paid to our office within the time allotted or **OTHER SUITABLE ARRANGEMENTS** made, we will proceed with legal action to collect the full amount owed to our client plus all interests and costs. This legal action could include a law suit being filed, garnishment, execution and/or attachment of your property to enforce the legal recovery of this debt.

In order to take advantage of this offer, your payment may be issued in certified funds or money order and must be received in this office no later than March 28th, 2010. For your convenience you may also make this payment by telephone through our automatic draft system or by credit card. In return for your payment, our client will show this debt forever **PAID IN FULL** and close your account from their books. To take advantage of this offer, please contact our office at (334)832-4200 or toll free, (866)629-0912. A member of our staff will assist you and work with you to get your account properly noted with this settlement.

Please note this letter is sent for the purpose of attempting to collect a debt and any information obtained from you will be used for the purpose of collecting the debt from you.

PLEASE NOTE THIS LETTER IS FROM A DEBT COLLECTOR.

Sincerely,

Parnell & Crum, PA

Celebrating 30 years of excellence through integrity, hard work, and dedication